

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BENNIE BARNES,	)	
	)	
Petitioner,	)	
	)	Civil Action No. 11-255 Erie
v.	)	
	)	
ERIE COUNTY COURT OF COMMON	)	
PLEAS, et al.,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

This habeas corpus action was received by the Clerk of Court on October 26, 2011 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [ECF No. 15], filed on October 2, 2012, recommended that the Petition be dismissed for lack of jurisdiction and that a certificate of appealability be denied. The parties were allowed fourteen (14) days from the date of service to file objections. Objections were filed by Petitioner on October 17, 2012 [ECF No. 16]. After de novo review of the documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 19<sup>th</sup> day of October, 2012;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED for lack of jurisdiction. IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

The Report and Recommendation [ECF No. 15] of Magistrate Judge Baxter, filed on October 2, 2012, is adopted as the opinion of the Court.

The Clerk is directed to mark the case closed.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge